

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 KINSHASA 001141

SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [CG](#)

SUBJECT: DRC - THE NATIONALITY QUESTION

REF: KINSHASA 1051

Introduction

1. (SBU) Summary: Recent events in Bukavu (reftel) highlight the explosive nature of the nationality question, particularly for Tutsis in eastern Congo. Current Congolese law does not recognize the citizenship claims of some longtime residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis from Rwanda, who comprise less than 1 percent of the population. The Ministry of Justice has drafted a law that would outline procedures to acquire nationality under Article 14 of the Transitional Constitution, which says that all persons of ethnic groups or nationalities present in the DRC since independence have the same legal rights as citizens. The Banyamulenge, however, were not considered an indigenous ethnic group at independence. Resolution of the nationality issue is needed before elections to determine who is able to vote. However, with the many different opinions and emotions surrounding the issue, it is unclear how this issue can be resolved without lengthy, heated debate that could cause further slippage in the transition calendar. End Summary.

Citizens or not citizens?

2. (U) Although nine countries border the DRC, the nationality question in Congo is focused on Rwanda, specifically Rwandan Tutsis. Many Rwandans have emigrated to the DRC, some as far back as the 19th century. Those who came during the colonial period were considered by the Belgians to be Rwandan, but many have lived in the Congo for decades and have never been naturalized. Birth on DRC territory does not automatically confer citizenship, so persons born to Rwandan parents are not considered Congolese.

3. (U) In 1972, Mobutu issued a decree granting Zairean citizenship to Rwandans and Burundians who had been in the Kivus before 1 January 1960. However, in 1981 Mobutu's Parliament abrogated the 1972 decree with a law stating that only those belonging to a tribe that had been present in the Congo in 1885 would have Zairean nationality. All others could gain citizenship through a 2-tiered process (described below). Because there were allegedly no Tutsis in the Congo in 1885 and the Banyamulenge (meaning "people from the hills") did not exist, this essentially stripped the Tutsis of their citizenship. A 1999 decree made minor changes to the 1981 law, but the procedures remained the same. The 1981 procedures are still, theoretically, in place until Parliament finishes drafting an organic law to implement Article 14 of the Transition Constitution.

4. (U) The 1981 law outlines two types of citizenship: 'petite' and 'grande.' There are several conditions to get petite citizenship, including: must be over 18, speak one of the Congolese languages, have had habitual residence for a continuous period of 15 years, not have engaged in acts prejudicial to the Congolese state, and maintained main material ties/interests in the Congo for the preceding 10 years. With petite citizenship, one cannot serve in elected or political positions, in the army or the police with an officer rank, or in a public position at the executive level. Grande citizenship is much more difficult to get, and requires 15 years of status under petite citizenship, 'eminent service' to the nation, and the recommendation of the Mobutu-era 'central committee' (changed by the 1999 law to a 'legislative institution'). Most Banyamulenge would be ineligible for grande citizenship, and as a result would be unable to hold positions in government.

Banyamulenge seen as outsiders

5. (U) The question of citizenship in the Congo goes beyond the legal framework. Vangu Mambweni, head of the Nationality Commission after the 1992 National Conference and now Secretary for International Relations of the pro-Kabila PPRD

SIPDIS

political party, told poloff that most foreigners living in the Congo acknowledge they are foreigners. In contrast, the

Rwandans come over and proclaim themselves to be citizens without going through the process of applying for citizenship. He maintained the problem is the disregard for proper citizenship procedures. However, when poloff asked if the Banyamulenge would ever be seen as Congolese, even if they went through the proper procedures, he replied that the Rwandese want to come to Congo to rule over the Congolese, and if they change their ideology then they will be able to live here peacefully. This statement shows the underlying attitude that the Banyamulenge could never be true Congolese.

Next Steps

17. (SBU) We have not yet seen the draft nationality law that was prepared by the Ministry of Justice and is currently with the Political, Defense, and Security Commission. One MP told USAID-funded NGO NDI the draft could be finished by mid-June, but this seems highly unlikely given recent events in Bukavu. Previous laws on nationality have defined citizenship on an ethnic or tribal basis and the Transitional Constitution defines it in the same way. The new Constitution and organic law ideally should confer citizenship on an individual basis, not by tribal or ethnic groups.

18. (SBU) The Sun City resolutions on nationality, agreed to in April 2002, echo Article 14 of the Transition Constitution and ask for a census to identify all nationals, immigrants, refugees, and infiltrators. No census has been undertaken because there is no money to fund one, so it is unclear how that may factor into the draft nationality law. The resolutions also leave the question of dual nationality, currently not recognized under the law, to future legislation. All of the previous laws have emphasized that Congolese citizenship is exclusive, and given the tension between Rwanda and the DRC, it is unlikely that the new law will recognize dual citizenship. (Comment: This policy is hypocritical inasmuch as many senior Congolese officials already hold European or American passports. End Comment.)

19. (SBU) Elections cannot be held until the nationality issue is cleared up. Members of the RCD/G, who know it is unlikely they will receive many votes during an election, have an interest in their few perceived supporters, i.e., the Banyamulenge, being citizens. Because there is a lack of political will toward elections and slow movement on laws in general in Parliament, there is no current schedule as to when the nationality law will be passed. (Note: only 2 major pieces of legislation have gone through the entire legislative process since the transition began. End note.) National Assembly Speaker Olivier Kamitatu has previously suggested July/August. Recent events in Bukavu may provide an impetus to resolve this question sooner rather than later, but are also likely to increase anti-Banyamulenge sentiment.

Comment

10. (SBU) A clear nationality law is needed prior to elections to determine both who can vote and who can hold office. The latter is particularly important to Banyamulenge politicians like Vice President Ruberwa. However, attitudes take time to change, and many Congolese are skeptical that the Banyamulenge deserve citizenship, believing that they are still loyal to Rwanda. Despite these attitudes, it is important to have a law that clearly defines nationality, preferably on an individual basis, and eliminates the ambiguities of previous laws. Once there is a legal text to work with, putting the framework into place will follow. Unfortunately, debate over this emotional issue is likely to be lengthy and heated, risking further slippage in the transition calendar.

HOOKS